

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**FINANCIAL AUDIT REPORT  
FOR THE NINE MONTHS ENDED  
MARCH 31, 2010**



**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

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This report can be accessed in its entirety on-line at [www.gencourt.state.nh.us/lba/audit.html](http://www.gencourt.state.nh.us/lba/audit.html)

## **STATE OF NEW HAMPSHIRE INSURANCE DEPARTMENT**

### **Reporting Entity And Scope**

The reporting entity of this audit and audit report is the New Hampshire Insurance Department, excluding all related Boards, Associations, Advisory Committees, Commissions, facilities, and like entities. The scope of this audit and audit report includes the financial activity of the Insurance Department for the nine months ended March 31, 2010. Unless otherwise indicated, reference to the Department or auditee refers to the Insurance Department.

### **Organization**

The State of New Hampshire first established an insurance regulatory agency in 1851. The New Hampshire Department of Insurance continues, pursuant to RSA 400-A:1, as an independent regulatory agency.

The Department is under the executive direction of the Insurance Commissioner, who is appointed by the Governor, with the advice and consent of the Executive Council, to a five-year term. The Commissioner is authorized to appoint a Deputy Commissioner, subject to the approval of the Governor, to a five-year term, and a Director of Operations, a Director of Examinations, and a number of other professionals who serve at the pleasure of the Commissioner during good behavior.

The Insurance Department is headed by a Commissioner and at March 31, 2010 was staffed with 13 unclassified, 58 full-time classified, and two part-time employees.

The Insurance Department is located at 21 South Fruit Street, Suite 14, Concord, New Hampshire.

### **Responsibilities**

The responsibilities of the Insurance Department are codified by the provisions of RSA 400-A and include the enforcement of insurance laws of the State of New Hampshire, including collection of premium taxes and fees, and regulation of all insurance companies, agents, and adjusters.

The Insurance Department's stated mission is to "promote and protect the public good by ensuring the existence of a safe and competitive insurance marketplace through the development and enforcement of the insurance laws of the State of New Hampshire. We are committed to doing so in an honest, effective and timely manner. In pursuit of our mission we will treat all of our constituencies in an open, fair and respectful manner and strive to uphold the highest professional, ethical and quality standards."

## Funding

The financial activity of the Insurance Department is accounted for in the General Fund of the State of New Hampshire.

The cost of administering the Department is recovered through an administrative assessment, examination billings, and other fees recorded as restricted revenue in the General Fund. The assessment is levied upon insurance companies licensed in the State and covers the administrative costs of operating the Department that are not recovered by other fees.

A summary of the Department's revenues and expenditures for the nine months ended March 31, 2010 is shown in the following schedule.

### Summary Of Revenues And Expenditures For The Nine Months Ended March 31, 2010

	<u>General Fund</u>
Unrestricted Revenue	\$ 67,328,107
Restricted Revenue	<u>6,132,990</u>
<b>Total Revenue</b>	<b><u>73,461,097</u></b>
<b>Total Expenditures</b>	<b><u>5,987,641</u></b>
<b>Excess (Deficiency) Of Revenues Over (Under) Expenditures</b>	<b><u>\$ 67,473,456</u></b>

### Prior Audits

The most recent prior financial audit of the Insurance Department was for fiscal year ended June 30, 2000. The appendix to this report beginning on page 33 contains a summary of the current status of the observations contained in that prior report and a summary of the current status of the observations contained in a performance audit report of the Insurance Department Consumer Protection Functions dated August 2007. A copy of the prior audit reports can be accessed online at: [www.gencourt.state.nh.us/lba/audit.html](http://www.gencourt.state.nh.us/lba/audit.html).

### Audit Objectives And Scope

The primary objective of our audit was to express an opinion on the fairness of the presentation of the financial statement of the Insurance Department for the nine months ended March 31, 2010. As part of obtaining reasonable assurance about whether the financial statement is free of material misstatement, we considered the effectiveness of the internal controls in place at the Department and tested its compliance with certain provisions of applicable State and federal laws, rules, regulations, and contracts. Major accounts or areas subject to our examination included, but were not limited to, revenues and expenditures.

Our report on internal control over financial reporting and on compliance and other matters, the related observations and recommendations, our independent auditor's report, the financial statement, and supplementary information are contained in the report that follows.

## **Auditor's Report On Internal Control Over Financial Reporting And On Compliance And Other Matters**

*To The Fiscal Committee Of The General Court:*

We have audited the Statement of Revenues and Expenditures - General Fund, of the New Hampshire Insurance Department (Department) excluding all related Boards, Associations, Advisory Committees, Commissions, facilities, and like organizations for the nine months ended March 31, 2010, and have issued our report thereon dated October 7, 2010 which was qualified as the financial statement does not constitute a complete financial presentation of the Department. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

### Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Department's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as discussed below, we identified a certain deficiency in internal control over financial reporting that we consider to be a material weakness and other deficiencies that we consider to be significant deficiencies.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a



material misstatement of the Department's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in Observation No. 1 to be a material weaknesses.

A *significant deficiency* is a deficiency or combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies describe in Observations No. 2 through No. 9 to be significant deficiencies.

### Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Department's financial statement is free of material misstatement, we performed tests of the Department's compliance with certain provisions of laws, rules, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted an immaterial instance of noncompliance which is described in Observation No. 10.

The Department's response is included with each observation in this report. We did not audit the Department's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of the management of the Insurance Department, others within the Department, and the Fiscal Committee of the General Court and is not intended to be and should not be used by anyone other than these specified parties.

Office Of Legislative Budget Assistant

October 7, 2010

**Internal Control Comments**  
**Material Weakness**

**Observation No. 1: Controls Over Activity Performed By Service Organizations Should Be Improved**

*Observation:*

The Department lacks controls to ensure transactions performed on its behalf by service organizations are accurate and complete. The Department is reliant upon the good performance of these organizations for fulfilling significant aspects of its data and revenue collection responsibilities; yet, the Department has not taken reasonable steps to ascertain these organizations are performing these responsibilities for the Department in a controlled manner.

The lack of Department involvement in controls over the collection of material Department revenues and data places the Department at significant risk of reliance upon controls at its service organizations that may or may not be in place and effective.

The Department has agreements with three insurance-industry service organizations for the collection of revenues and the recording of certain business activities. During the nine months ended March 31, 2010, these service organizations collected approximately \$7 million of fee revenues and recorded related licensee and other data on behalf of the Department. The service organizations forward the revenues to the Department and the Department uses the licensee and other data maintained by these organizations for the Department's regulatory purposes.

The Department utilizes the services of the State Based Systems (SBS) and the National Insurance Producer Registry (NIPR) for licensing activity and the System for Electronic Rate and Form Filing (SERFF) for rate and form filings activity. The National Association of Insurance Commissioners (NAIC) operates both the SBS and SERFF. A non-profit NAIC affiliate operates NIPR. Prior to an auditor inquiry, the Department had never requested or inquired about the availability of a service auditor report (report issued in accordance with Statement on Auditing Standards No. 70 (SAS 70)) covering the services provided to the Department. While the agreement with the service organizations allows the Department to audit or examine the books and documents of the service organizations with prior written notice, the Department reported it has never done so.

Such a report or a Department review of business and financial records could reasonably determine whether these service organizations perform their contracted activity in a controlled manner and allow the Department to have reasonable assurance of the accuracy of the results of that activity. While the Department regularly agrees the revenues reported as collected by the organizations to deposits in Department accounts, the Department does not review and compare the licensing and other activity performed by these organizations to the amounts of revenues collected and deposited.

The auditors requested the Department prepare a reconciliation of revenue to licenses issued per NIPR and SBS to the amount of revenue recorded in NHFirst for the nine months ended March 31, 2010 to review and compare the licensing and other activity performed by these organizations to the amounts of revenues collected and deposited.

The initial reconciliation prepared by the Department noted the Department collected \$378,357 more than the records would indicate as being due. In its investigation of the difference, the Department determined an SBS report used to calculate total revenue collected for the period for appointments and terminations was inaccurate, and could not be relied upon. Upon further review, the Department determined NIPR inappropriately collected<sup>1</sup> and forwarded to the Department approximately \$151,000 from 6,037 transactions that were rejected or otherwise not successfully completed. The Department had no explanation for \$136,000 of difference noted by its reconciliation.

*Recommendation:*

The Department should establish controls to ensure the financial activity performed under contract or license on its behalf by service organizations is sufficiently controlled through controls in place and operating at the service organizations to allow the Department to be reasonably assured that revenues and licensing data processed by these organizations are complete, accurate, and securely processed. At a minimum, the Department should begin comparing the licensing and other fee-generating activity reported by its contracted service providers to the amounts of revenue forwarded to the Department.

The Department should discuss with the service organizations the possibility of obtaining SAS 70 reports for the services provided by these organizations. If the Department is not able to obtain relevant SAS 70 reports, the Department should take advantage of the agreements with the service organizations that allow for the Department's access to and review of the service organizations' financial records to verify the completeness and accuracy of the information and revenue collected and processed on the Department's behalf.

*Auditee Response:*

We concur.

The Department has contacted our ministerial service organizations regarding our desire for a SAS 70 and they have agreed to move to a process by which they could provide these reports going forward.

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<sup>1</sup> A third party collects the data and fees and forwards same to NIPR. NIPR forwards fees to the Department and makes the data available to the Department through the SBS.

## Other Significant Deficiencies

### **Observation No. 2: Department Should Record And Report All Of Its Financial Activity, Including Costs Of Contracted Professionals**

#### *Observation:*

The financial activity related to the Department's hiring of professionals to assist it in meeting its statutory responsibility for examining insurance companies is not reflected in the financial accounts of the Department.

RSA 400-A:37, III(d) states that the "...commissioner may retain, without appropriation under RSA 9 and without qualifying as a department expenditure under RSA 4:15, attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the cost of which shall be borne by the company which is the subject of the examination. The company shall pay the retained professional or specialist directly for these costs."

The Department contracts with professionals including examiners, actuaries, and accountants to assist the Department in meeting its statutory responsibilities to examine insurance companies. The contract documents used by the Department to engage these professionals indicate the contract is between the Department and the professional but that the insurance companies will pay the professionals for the services rendered. The contractors forward their invoices for professional services to the Department for review and approval and the Department submits the invoices to the examined insurance company for payment directly to the professional. While the Department requests that the insurance company provide the Department proof of payment, the Department reports that this request is not always complied with.

The Department's process for paying professionals to perform examinations of insurance companies on its behalf does not record and report the costs and revenues related to the Department meeting its statutory responsibility in the Department's financial statements.

#### *Recommendation:*

The Department should work with the Department of Administrative Services to establish a process by which the complete financial activity of the Department, including the financial activity related to the services of contracted professionals, can be recorded and reported in the Department's financial accounts for financial reporting purposes under generally accepted accounting principles and still be in compliance with the provisions of RSA 400-A:37, III(d).

The Department should reemphasize with examined insurance companies the requirement for the examined companies to provide to the Department proof the contracted professionals have been paid.

*Auditee Response:*

We do not concur.

We agree that the Department should record and report all of its financial activity. However, we believe that expenditures which, by law, are not department expenditures cannot constitute financial activity of the Department. The Audit Division of the LBA appears to define “financial activity” as any “costs and revenues related to the Department meeting its statutory responsibility” whether or not such costs and revenues are costs and revenues of the Department.

We do not believe that this definition of financial activity is an appropriate standard for what ought to be included in the Department’s financial statement. The Department’s current financial reporting practices are in accordance with RSA 400-A:37, III (d). The expenses of expert consultant examiners are specifically not considered to be a “department expenditure” under RSA 4:15 and are, instead, to be “borne by the company which is the subject of the examination.” The Department has acted carefully and deliberately to insert language in our consultant agreements clearly stating that expert consultant examiner costs are the obligation of the companies examined and that the consultant understands that the State of New Hampshire has no obligation to the consultant and the consultant will not look to the State of New Hampshire for payment. To include these expenses in the Department’s financial accounts would open the door of State liability for such expenses. In addition, it is not required for a complete accounting of the Department’s financial activity, properly understood as activity reflecting the Department’s own costs and revenues.

**Observation No. 3: Disaster Recovery And Business Continuity Plans Should Be Established**

*Observation:*

The Department has not completed a disaster<sup>2</sup> recovery and business continuity plan for its operations. The lack of a reasonable disaster recovery and business continuity plan places the controlled and efficient operations of the Department at risk if a disaster or other disruption of operations occurs affecting its location or systems or the locations or systems of the service organization on which it relies.

The Department also has not conducted a formal risk assessment and does not have risk assessment policies and procedures in place to continually review for and assess risks facing its operations. Risk assessment activities are critical to controls and disaster recovery and continuity of operation plans.

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<sup>2</sup> While disasters are often thought of in terms of fires and floods destroying facilities or information systems, disaster recovery plans also should consider the risk of and recovery from other incidents such as the loss, release, or corruption of confidential information housed on internal systems or systems on which the entity relies or the unexpected unavailability of critical vendors or service organizations.

While the Department reports it is participating in an initiative to develop a Statewide continuity of operations plan funded through a federal grant received by the Department of Emergency Management, the Department as of March 31, 2010 did not have any aspects of a formal plan in place.

*Recommendation:*

The Department should continue in its efforts to develop disaster recovery and business continuity plans. The Department should regularly test the plans and train its employees in relevant aspects of the plans.

Integral to the implementations of disaster recovery and business continuity plans is the establishment and operation of effective risk assessment policies and procedures that formalize the Department's risk assessment process, which provides for regular and continuous consideration of the risks faced by the Department's operations. In considering the risks faced by its operations, the Department must also consider the risks it faces due to its reliance on the continued secure operation of its service providers.

*Auditee Response:*

We concur.

We will continue to work with the state and our service organizations to formalize a business continuity plan and to create a risk assessment policy which includes random periodic tests of the final plan. The Department's service organizations provide many of the day-to-day essential ministerial operations of the Department and these service organizations have built in redundancies and alternative disaster response site locations as part of their underlying operations. The Department has made the request that the service organizations provide the results of their independent tests as they occur.

**Observation No. 4: Controls Over Administrative Assessment Should Be Improved**

*Observation:*

The Department does not have comprehensive documented policies and procedures or segregation of duties, including review and approval controls, for its administrative assessment billings. During the nine months ended March 31, 2010, the Department recognized \$4.6 million of administrative assessment revenue.

Annually, during the first month of the fiscal year, the Department prepares its administrative assessment billings on all insurers licensed in the State. The total of the assessment is an estimate of the cost of operation of the Department's Administration Unit for the fiscal year. Each insurer doing business in the State is invoiced for its pro-rata share of the Administration Unit's operating costs based on each insurer's gross direct premiums, less returns and dividends, written

in the preceding calendar year, as a pro-rata share of all insurers' premiums. As such, the administrative assessment for fiscal year 2010 was billed in August 2009, and was based on premiums written in calendar year 2008.

For at least the last eight years, the Department utilized a workbook of spreadsheets to compile insurance premium data, calculate the amount to be assessed, and determine each insurer's pro-rata share. For the fiscal year 2010 calculation, the workbook contained 27 separate, interlinked worksheets, which were used to calculate or track premium and billing information for 967 insurers reportedly subject to the assessment.

During fiscal year 2010, one Department employee was responsible for gathering all premium data, determining the total amount to be assessed, and calculating each insurer's pro-rata share of the assessment. There were no documented independent reviews or approvals of the billings prior to the release of the invoices. While the Department reported the calculation was reviewed, there is no evidence of that review. Also, while the Department has a one-page "Administrative Assessment Procedure" document prepared in response to a prior audit comment, the documented procedures do not reference the use of the administrative assessment workbook or describe a review and approval control for the assessment.

A similar comment was noted in the fiscal year 2000 audit of the Department.

*Recommendation:*

The Department should establish appropriate controls over its administrative assessment process. The controls should include, but not be limited to, appropriate policies and procedures for the assessment process, including obtaining pertinent licensee data, the use of the workbook to calculate licensees' pro-rata shares, and appropriate segregation of responsibilities over the process to ensure there is an independent and documented review and approval for the assessment amounts.

*Auditee Response:*

We concur in part.

Segregation of duties is present in the process. Tax personnel perform the calculation, the assessment, and preparation of the invoices. The cash receipts, journal entries, and reconciliation functions are performed by the Business Division.

The assessment is calculated in accordance with RSA 400-A:39, VI. The assessment is calculated annually. The procedure requires the preparer understand the law, the data, and electronic applications utilized. The workbook currently utilized includes notes to understand the clerical aspects of the using the workbook. The preparer should be reviewing for opportunities to make efficient modifications in the mechanical features of the process. The calculation is performed once annually. Potentially, procedures would be changed concurrently in the process and the written procedures outdated each year.

The Observation stated, “While the Department reported the calculation was reviewed, there is no evidence of that review.” Management oversight as a control, even when it is not documented by a signature, is a valid control. The effectiveness of the control is evidenced by the calculation being in compliance with RSA 400-A:39, VI and accurate. It should be noted that no instances of noncompliance or computation errors were reported in the observation.

A documented review and approval of the assessment calculation will be implemented for fiscal year 2012.

### **Observation No. 5: Controls In Financial Receipts Database Should Be Improved**

#### *Observation:*

The Financial Receipts Database used by the Department, in part as an initial recording of the receipt of revenues, is not entirely secure for that purpose in its current configuration.

Generally, when the Department receives revenues, either electronically or physically at the Department, the receipt of the revenue is recorded in the Financial Receipts Database. Although the Database has some controls, including access and reasonableness controls, there is no system control preventing the data entry operator from “backdating” a transaction. The operator enters a journal or posting date for each transaction, and this field is the basis for reporting. If the operator enters a journal date other than the current business day, when the system accumulates the day’s total business for comparison to a deposit total, the misdated transaction amount is not included in the total to be compared to the current day’s deposit. By entering a prior business date as the current journal date, an operator could allow an account to be credited for a payment but hide the payment from the day’s deposit total and reconciliation. While the Database also records a system “timestamp date” for the transaction, the Department does not utilize this system date to ensure that all of the business day’s transactions are included in the day’s deposit.

An auditor comparison of the journal date field with the “timestamp” field did not detect any questionable backdated transactions during the audit period.

#### *Recommendation:*

The Department should improve controls to minimize the risk of intentional or unintentional entry of incorrect transaction journal dates that could cause revenue errors or frauds to go undetected.

The Department should consider either rewriting its reports to key off the system “timestamp” date; perform regular, cumulative reconciliations; periodically review the Database for discrepancies between the journal dates and the “timestamp” dates; or take other reasonable steps to determine that receipts are posted to the Database and deposited to the Department’s account timely and intact.

#### *Auditee Response:*



We concur.

The Department's Financial Database, a Microsoft Access application, is utilized for the Department subsidiary ledger accounting records. Subsidiary ledger accounts are not part of the general ledger; they are supplemental accounts that provide the detail to support the balance in a control account. The control accounts are in the NH First Financial System.

Disbursements are first posted to the control accounts on NH First. The disbursement is subject to an approval process. When the check is issued the transaction is entered in the subsidiary ledger. There is a timing difference in processing disbursements. In the event the timing difference occurs over the fiscal year end, the backdating feature is available to properly record transaction in the correct fiscal year.

To strengthen controls over the subsidiary ledger, on a monthly basis, the NH First cumulative balances in the control accounts will be reconciled with the subsidiary ledger accounts. As part of the reconciliation, research will be performed. Reconciling items, such as backdated transactions will be identified and investigated. Additionally, at the end of the fiscal year, there will be a query run to identify backdated entries.

**Observation No. 6: Billing For Examination Costs Should Be Subject To Review And Approval Control**

*Observation:*

The Department does not subject its relatively complex process for recovering its costs for the examination of insurance companies to a review and approval control. No one at the Department other than the preparer of the related calculations reviews the calculations prior to the Department's submission of the invoices to the insurance companies for payment. During the nine months ended March 31, 2010, the Department billed insurance companies \$1,577,940 for examination costs.

Monthly, the Department bills insurance companies for its costs incurred in the examination of those insurance companies during the previous month. The invoices reflect billable hours charged to the examination multiplied by a per-diem rate, which the Department recalculates monthly. Inputs to the calculation include the combined expenditures for the Department's Financial Examination and Market Conduct Examination Divisions and the actual billable hours of employees in the two Divisions for the prior month. A spreadsheet is used to calculate an initial rate which is then adjusted to allow the Department to recover its fiscal year costs in an eleven-month billing period.

A final bill is issued in July of the subsequent period to "true-up" the prior fiscal year's examination billings and revenues to actual costs. In this true-up process, refunds or additional billings are issued to companies examined by the Department in order to match billings to actual costs. The true-up at the end of fiscal year 2009 (the most recent complete fiscal year at the time

of the audit) resulted in additional billings of \$113,826 and refunds paid of \$85,381, for a net additional billing by the Department of \$28,445.

Upon the receipt of payment from the insurance companies, the Department initially records all examination revenue in the Financial Examination Division revenue source account, regardless of whether the examination billing related to a financial or market conduct examination. At the end of the fiscal year, the Department allocates sufficient examination revenue to the Market Conduct Division accounts to cover the expenditures of that division.

During our review of the examination billing procedures, we noted the following inconsistencies in the Department's calculation of the per-diem rate:

- The salaries of two employees who work on examinations are not included in the calculation of the per-diem rate. While the billable hours for these employees are included in the calculation, because their positions are in the Administration Division, their salary costs are not included in the calculation and therefore are not recovered by the billing.
- The salary of the Director of the Market Conduct Division is recorded in the Financial Examination Division, and the salary of the Director of the Financial Examination Division is recorded in the Administration Division.
- The salary of an employee who performs market conduct examinations is charged to the Financial Examinations Division.

The Department was unaware of the above inconsistencies prior to discussions with the auditors.

*Recommendation:*

1. The Department should establish an effective review and approval process for its invoicing of examined insurance companies. An individual knowledgeable of the Examination Divisions' operations, including employees involved in the examination processes, should review and approve the calculation of the rates, determination of billable hours, and accuracy of the invoiced and deposited amounts.

As part of its review of the examination billing procedures, the Department should review to ensure employees' salaries and benefits are charged to the appropriate accounts in the State's accounting system (NHFirst) and payroll system (GHRIS).

2. The Department should review its examination billings procedures to determine if its current method of recalculating monthly per-diem rates is efficient, given the annual true-up prepared in July of each year. The use of an estimated annual per-diem rate may provide sufficient accuracy with less administrative burden on the Department.

*Auditee Response:*

We concur.

Responsibility for the per-diem calculation, and for the Department's examination billing, was assumed by the Administration Division from the Operations Division following the LBA auditor's departure from the Department. Since then, the Administration Division has simplified the per-diem calculation, which is now based upon the average per-diem rate for the previous two fiscal years. This per-diem rate will be used throughout the current fiscal year, and will not be recalculated on a monthly basis as it was in the past. The per-diem rate will be reevaluated in six months, and thereafter as necessary, to ensure the Department's books balance at the end of the fiscal year in order to ensure sufficient revenue to cover all expenses in the two examination program appropriation units (PAU's). This process additionally ensures all companies examined each fiscal year will be charged the same per-diem rate for each assigned examiner, regardless of division assigned or number of examiners assigned to an examination that month and will eliminate the monthly fluctuating per-diem rate previously used. It will further ensure that any year end adjustments (refunds or invoices) will be fairly apportioned to all companies examined during that fiscal year. In addition, calculating the per-diem in this manner more accurately reflects the true cost to the department for each examiner's wages and benefits, and it creates administrative and resource efficiencies within the Department by eliminating the repeated and complicated calculations used for setting per-diem rates in the past.

The Administration Division has developed and implemented a written procedure that requires senior examination staff in the Department's Financial Examination Division and Market Conduct units to review and approve all examination bills prior to transmittal to the respective carriers. This will provide the review of examination invoice accuracy cited by the LBA auditors in their recommendations. The procedure requires the dated signature or initials of the senior examination staff identified in the procedure, indicating their review and approval, prior to transmission of the examination invoice to the carrier.

The issue raised in this observation relative to salary costs has been resolved via a transfer at fiscal year end 2010. This issue has also been addressed in the fiscal year 2012 and 2013 Department budget proposal. This issue was the result of two errors in the accounting and payroll systems originating at the Department of Administrative Services (DAS). First, there was an error in transferring funding codes for positions that were transferred to a new PAU during the fiscal year 2010 and fiscal year 2011 budget process. In addition, DAS explained that the data transfer from IFS [the State's prior accounting system] to the new (at the time) Affinity Budget System was faulty and resulted in a misallocation of certain positions by bifurcating those positions over two PAU's. Although the Insurance Department was not informed which position numbers or how many positions were affected, we were told by DAS that 93.12% of the salaries of certain positions were incorrectly allocated to Accounting Unit (AU) [previously known as Organization Code] 2522 and 6.88% of those same positions were allocated to AU 2520 as part of the data transfer.

Finally, the Department is restructuring its examination PAU's (AU 2521 and AU 2522) in its fiscal year 2012 and 2013 budget by moving all administrative costs (costs unrelated to salary and benefits) to the administrative PAU, AU 2521. Only salary and benefits expense will remain in AUs 2522 and 2521. This amount will be used to calculate the annual per-diem rate, and will therefore accurately reflect the department's true direct cost for examination staff, which in accordance with Department statutes is chargeable to the insurance company being examined.

The administrative expenses previously budgeted to these two PAU's will now be more appropriately budgeted as part of the administrative PAU, AU 2520, and will be realized as revenue as part of the Department's administrative assessment to all companies doing business in the State of New Hampshire.

**Observation No. 7: Department-Drawn Checks Should Be Forwarded Directly To Payees**

*Observation:*

The Department's practice of directing refund checks to be sent to the Department by the State Treasury prior to being mailed to the payee increases the risk that refund payments may be lost, misdirected, or stolen.

The Department's refund procedures in place during the nine months ended March 31, 2010 generally provided for refund checks to be delivered to the Department in order to allow the Department to mail the check with accompanying documentation explaining the payment to the payee. Refund checks received by the Department are forwarded to an employee, who enters the check amount in the Department's Financial Receipts Database, as a reduction of the appropriate revenue source, and the check is given to the original processor of the refund transaction who attaches supporting documentation and mails the check and documents to the payee. Allowing the employee who initiates the production of a check to have access to the check prior to disbursement to the payee creates a significant segregation of duties risk as it increases the risk that a refund check may be lost or stolen without detection.

During the nine months ended March 31, 2010, the Department processed 104 refund checks totaling approximately \$460,000. Refunds due but not paid at March 31, 2010 numbered 42 and totaled approximately \$2,195,000.

*Recommendation:*

The Department should not, as a general practice, have Department-requested checks forwarded to the Department prior to disbursement to the intended payee. Department checks should be mailed immediately upon production to the intended payee to limit the risk of loss or misdirection of the payment.

If the Department has concern regarding the payee having sufficient information to properly apply the payment, the Department should mitigate those concerns through making an advanced notice to a payee of an impending payment or other process to allow the Department's checks to be directly mailed to the payee.

If the Department chooses to continue to allow checks to be delivered to the Department prior to disbursement, the Department should ensure the employees involved in initiating the payments do not have subsequent access to the checks prior to disbursement to the payee.

*Auditee Response:*

We concur.

The Department has instituted a new practice that requires that checks sent from the Treasury Department after issue be forwarded to a business office employee that differs from the employee entering the check production information (“check issuer”) into the State accounting system (NHFirst). Upon return to the Department, the checks will be forwarded to an individual who did not enter the checks into NHFirst to generate production of the checks (“check recipient”). The check recipient will then match the checks against the spread sheet provided by the Operations Division and check off each check received. The check recipient will then forward the checks to the check issuer and forward the spread sheet to the Business Supervisor. The check issuer will match each check with the corresponding refund letter provided by the Operations Division, and will place the check and corresponding letter in an envelope and place the envelope in the mail. This process will ensure that all checks ordered in NHFirst by the check issuer will be tracked upon by the check recipient upon receipt by the Department. Additionally, this process ensures that any missing or additional checks will be immediately be detected upon cross checking the spreadsheet. Any missing or additional checks will be reported to managers by the check recipient for further investigation.

#### **Observation No. 8: All Penalty Waiver Determinations Should Be Documented**

##### *Observation:*

The Department granted a waiver to a statutory penalty without documenting the rationale for granting the waiver.

Annually, pursuant to RSA 400-A:39, the Department bills an assessment on all New Hampshire licensed insurance companies to cover the administrative costs of the Department. The fiscal year 2010 invoices for the assessment were sent out on August 12, 2009, with a payment due date of October 1, 2009. On October 2, 2009, the Department received payments from one insurance group for two of its separately licensed companies. Upon receipt of the overdue payments, the Department generated late payment invoices, which calculated a late penalty amount of 10% of the assessment that was due plus a .050% daily interest accrual totaling approximately \$46,000.

The insurance group contacted the Department by letter requesting relief from the penalty citing RSA 400-A:32-a, (b), which states that mail shall be considered filed with the Department if the sender establishes competent evidence that the mail was deposited with the U.S. Postal Service on or before the due date. The Department initially denied the request for the waiver in an undated letter. Subsequently, the insurance group provided further documentation that apparently the Department verbally requested. According to the Department, the Commissioner, based on this additional documentation, waived the penalty; however, the Department did not document the waiver of the penalty or the basis for that waiver.

Subsequent to audit inquiry, the Department prepared a letter to the insurance group, dated April 5, 2010, formally documenting the waiver of the penalty.

*Recommendation:*

The Department should document its response to all requests for waivers from provisions of administrative rules, whether granted or denied, and whether the action on the waiver was subject to a formal administrative proceeding or was granted or denied by the Commissioner without formal administrative proceedings.

*Auditee Response:*

We concur.

As a general practice, the Department rarely grants statutory penalty waivers. Penalty letters are sent after a formal review of the assessment invoices and receipts to any insurance company or group which the Department determines has not complied with the statutory payment requirements. In order for an insurance company or group to receive a waiver of this penalty, they must submit a formal letter in writing and provide evidentiary documentation which explains why they believe that they have indeed complied with the provisions of the law. These letters and documentation are then reviewed and a formal notice is sent out to the company providing the Department's position. At that point, if the company or group wishes to challenge the position, they can ask for a formal hearing on the determination. Thus far, we have had no company request a formal hearing.

The auditors did note that there was a waiver provided after a review of the formal request and documentation in one case. The error in this case was that a formal notice should have been sent to the company right away to confirm the Department's position to provide the waiver and we had only given the company a verbal response prior to the audit period. We did follow-up with a formal written response to the company regarding its waiver approval and we will make sure to continue this formal response procedure on a timely basis going forward.

**Observation No. 9: Coordination And Information Sharing Should Be Improved By Divisions Reviewing Retaliatory Fees**

*Observation:*

Department concern with the accuracy of information posted to an industry information clearinghouse has resulted in the Department taking additional steps to ensure it had accurate information in order to process filing fees, including any associated retaliatory fees. While one of the Department's two divisions processing filing fees has developed a method for verifying fees charged by other states, the other division relies upon the knowledge and experience of its employees to detect when information provided by the clearinghouse is incorrect. The Department and divisions have not coordinated this effort to make the fee status checking process more efficient.

Since January 1, 2008, the Department's statutes require insurers to file Property and Casualty (P&C) and Life Accident and Health (LAH) rate and policy information on the National Association of Insurance Commission (NAIC) System for Electronic Rate and Form Filing (SERFF). SERFF enables companies to send, and states to receive, comment on, and approve or reject insurance-industry rate and form filings. While New Hampshire does not have filing fees in statute, the Department does assess fees upon companies domiciled in other states that charge fees on New Hampshire companies as provided by RSA 400-A:35's retaliatory provisions.

To verify the correct fee has been submitted, the Department's LAH Division mainly utilizes the NAIC Retaliation Guide (Guide) and employee knowledge and experience to verify that the correct fee has been paid. The Department's P&C Division maintains a separate electronic spreadsheet that it utilizes along with the General Information Sheet contained in SERFF and the Guide. The P&C Division developed the spreadsheet to supplement the Guide due to concerns states do not timely and accurately update information in the Guide. For a case in point, for one of a sample of 25 items tested, the Guide incorrectly noted the relevant state charged filing fees; however, the P&C Division's fee reference spreadsheet correctly indicated the state did not have any filing fees. Pursuant to the auditor's inquiry, the Department contacted the applicable state's Insurance Department and learned the state in question had not charged relevant fees since 1995.

Improved communication between the Department's divisions processing filing fees could make their processing more efficient through the common use of reference data such as the spreadsheet developed to supplement the Guide.

*Recommendation:*

The Department, through its association with the NAIC, should continue to request user states maintain accurate information in the SERFF.

Pending changes that result in reliable NAIC Guide information, the Department should coordinate the activities of its Property and Casualty and Life Accident and Health Divisions to take advantage of increased efficiencies and control provided by improved communication and information sharing.

*Auditee Response:*

We concur.

Given that we only have the power of persuasion over our fellow states in requesting that they continue to keep the NAIC Retaliation Guide updated, our focus will be geared toward creating a more efficient internal set of communication methods to help keep all the units who must track retaliatory fees updated with the most recent information available to the Department. While we will make a request to our fellow states, it should be understood that the retaliatory fees in many states are not maintained or amended and updated by the state Insurance regulators but may be overseen by either state Revenue Administrations or state Treasury Departments, depending on each state's statutory requirements. Our regulatory partners in the other state Insurance

Departments are only one set of parties who may be needed to try to maintain up-to-date retaliatory figures. The NAIC Guide was created to help each state try to keep abreast of the fees but there is no regulatory or statutory mandate on any of the states to keep this guide updated.



## State Compliance Comment

### **Observation No. 10: Rule Describing Organizational Structure Should Be Current**

*Observation:*

The Department's current organizational structure is not consistent with the organizational structure described in N.H. Admin. Rules, INS 102, the administrative rule describing the various divisions within the Department.

The Department amended and readopted its administrative rules describing its organizational structure in 2003, subsequent to a prior audit comment, as organized in nine divisions. According to the Department, at March 31, 2010 the Department was in the last stages of reorganization into six divisions. When that process is complete, the Department reports it will initiate a revision to the rules to reflect the changes in its operating structure .

*Recommendation:*

The Department should initiate a revision to its administrative rules so that the rules reflect the Department's actual operating structure. The Department should endeavor to keep the administrative rules current; including the rules related to its operating structure, to help ensure individuals inside and outside of the Department can determine and understand the lines of authority and responsibility in the Department's operations.

*Auditee Response:*

We concur.

The Department intends to initiate revisions to its administrative rules so that the rules reflect the Department's actual operating structure as soon as the Department has completed its reorganization.

## **Independent Auditor's Report**

*To The Fiscal Committee Of The General Court:*

We have audited the accompanying Statement of Revenues and Expenditures - General Fund of the New Hampshire Insurance Department (Department) excluding all related Boards, Associations, Advisory Committees, Commissions, facilities, and like entities for the nine months ended March 31, 2010. This financial statement is the responsibility of the management of the Department. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statement of the Department is intended to present certain financial activity of only that portion of the State of New Hampshire that is attributable to the transactions of the Department. The Statement of Revenues and Expenditures - General Fund, does not purport to and does not constitute a complete financial presentation of either the Department or the State of New Hampshire in conformity with accounting principles generally accepted in the United States of America.

In our opinion, except for the matter discussed in the third paragraph, the financial statement referred to above presents fairly, in all material respects, certain financial activity of the Department for the nine months ended March 31, 2010, in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming an opinion on the Statement of Revenues and Expenditures - General Funds of the Department. The supplementary information, as identified in the table of contents, is presented for purposes of additional analysis and is not a required part of the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the financial statement taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued a report dated October 7, 2010 on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, rules, regulations, contracts, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Office Of Legislative Budget Assistant

October 7, 2010

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT  
STATEMENT OF REVENUES AND EXPENDITURES – GENERAL FUND  
FOR THE NINE MONTHS ENDED MARCH 31, 2010**

**Revenues**

**Unrestricted Revenues**

Premium Taxes	\$ 58,761,725
Producer And Adjuster License Fees	6,872,820
Insurance Company Fees	1,188,702
Miscellaneous Fines And Fees	<u>504,860</u>

**Total Unrestricted Revenues** **67,328,107**

**Restricted Revenues**

Administrative Assessment	4,590,910
Examinations Fees	1,451,705
Continuing Education Fees	<u>90,375</u>

**Total Restricted Revenues** **6,132,990**

**Total Revenues** **73,461,097**

**Expenditures**

Salaries And Benefits	5,128,229
Indirect Costs	238,209
Consultants And Contracted Services	157,802
Transfers To Department Of Information Technology	132,788
Transfers To General Services	129,667
Current Expenses And Equipment	102,601
Miscellaneous	52,389
Travel	<u>45,956</u>

**Total Expenditures** **5,987,641**

**Excess (Deficiency) Of Revenues**

**Over (Under) Expenditures** **67,473,456**

**Other Financing Sources (Uses)**

Net Appropriations (Note 2) -0-

**Total Other Financing Sources (Uses)** **-0-**

**Excess (Deficiency) Of Revenues And**

**Other Financing Sources Over (Under)**

**Expenditures And Other Financing Uses** **\$ 67,473,456**

The accompanying notes are an integral part of this financial statement.

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**NOTES TO THE FINANCIAL STATEMENT**  
**FOR THE NINE MONTHS ENDED MARCH 31, 2010**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The accompanying financial statement of the Insurance Department has been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and as prescribed by the Governmental Accounting Standards Board (GASB), which is the primary standard-setting body for establishing governmental accounting and financial reporting principles.

**A. Financial Reporting Entity**

The reporting entity of this audit and audit report is the New Hampshire Insurance Department (Department) excluding all related Boards, Associations, Advisory Committees, Commissions, facilities, and like entities. The Department is an organization of the primary government of the State of New Hampshire. The accompanying financial statement reports certain financial activity of the Department.

The financial activity of the Department is accounted for and reported in the General Fund in the State of New Hampshire's Comprehensive Annual Financial Report (CAFR). Assets, liabilities, and fund balances are reported by fund for the State as a whole in the CAFR. The Department, as an organization of the primary government, accounts for only a small portion of the General Fund and those assets, liabilities, and fund balances as reported in the CAFR that are attributable to the Department cannot be determined. Accordingly, the accompanying Statement of Revenues and Expenditures - General Fund is not intended to show the financial position or fund balance of the Insurance Department in the General Fund.

**B. Financial Statement Presentation**

The State of New Hampshire and the Department use funds to report on their financial position and the results of their operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities. A fund is a separate accounting entity with a self-balancing set of accounts. The Department reports its financial activity in the fund described below.

Governmental Fund Type:

*General Fund:* The General Fund is the State's primary operating fund and accounts for all financial transactions not specifically accounted for in any other fund. All revenues of governmental funds, other than certain designated revenues, are credited to the General Fund. Annual expenditures that are not allocated by law to other funds are charged to the General Fund.

### **C. Measurement Focus And Basis Of Accounting**

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay the liabilities of the current period. For this purpose, except for federal grants, the State generally considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, expenditures related to debt service, compensated absences, and claims and judgments are recorded only when payment is due.

### **D. Revenues And Expenditures**

In the governmental fund financial statements, revenues are reported by source. For budgetary control purposes, revenues are further classified as either “general purpose” or “restricted”. General purpose revenues are available to fund any activity accounted for in the fund. Restricted revenues are, either by State law or by outside restriction (e.g., federal grants), available only for specified purposes. Unused restricted revenues at year end are recorded as reservations of fund balance. When both general purpose and restricted funds are available, it is the State’s policy to use restricted revenues first. In the governmental fund financial statements, expenditures are reported by function.

### **E. Budget Control And Reporting**

#### *General Budget Policies*

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes a separate budget for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs and estimating revenues. There is no constitutional or statutory requirement that the Governor propose, or that the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental and proprietary fund types, with the exception of the Capital Projects Fund. The Capital Projects Fund budget represents individual projects that extend over several fiscal years. Since the Capital Projects Fund comprises appropriations for multi-year projects, it is not included in the budget and actual comparison schedule in the State of New Hampshire CAFR. Fiduciary Funds are not budgeted.

In addition to the enacted biennial operating budget, the Governor may submit to the Legislature supplemental budget requests necessary to meet expenditures during the current biennium. Budgetary control is at the department level. In accordance with RSA 9:16-a, notwithstanding

any other provision of law, every department is authorized to transfer funds within and among all program appropriation units within said department, provided any transfer of \$2,500 or more shall require prior approval of the Joint Legislative Fiscal Committee and the Governor and Council.

Both the Executive and Legislative Branches of government maintain additional fiscal control procedures. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial operations, needs, and resources, and to maintain an integrated financial accounting system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriations lapse at year end to undesignated fund balance unless they have been encumbered or legally defined as non-lapsing, which means the balances are reported as reservation of fund balance. The balance of unexpended encumbrances is brought forward into the next fiscal year. Capital Projects Fund unencumbered appropriations lapse in two years unless extended or designated as non-lapsing by law.

Contracts and purchasing commitments are recorded as encumbrances when the contract or purchase order is executed. Upon receipt of goods or services, the encumbrance is liquidated and the expenditure and liability are recorded.

A Budget To Actual Schedule, General Fund, is included as supplementary information.

## **NOTE 2 - NET APPROPRIATIONS**

Net appropriations reflect appropriations for expenditures in excess of restricted revenues not otherwise used (transferred to a Department or Fund).

## **NOTE 3 - EMPLOYEE BENEFIT PLANS**

### *New Hampshire Retirement System*

The Insurance Department, as an organization of the State government, participates in the New Hampshire Retirement System (Plan). The Plan is a contributory defined-benefit plan and covers all full-time employees of the Department. The Plan qualifies as a tax-exempt organization under Sections 401 (a) and 501 (a) of the Internal Revenue Code. RSA 100-A established the Plan and the contribution requirements. The Plan, which is a cost-sharing, multiple-employer Public Employees Retirement System (PERS), is divided into two membership groups. Group I consists of State and local employees and teachers. Group II consists of firefighters and police officers. All assets are in a single trust and are available to pay retirement benefits to all members.

Group I members at age 60 qualify for a normal service retirement allowance based on years of creditable service and average final compensation (AFC). The yearly pension amount is 1/60 (1.67%) of AFC multiplied by years of creditable service. AFC is defined as the average of the

three highest salary years. At age 65, the yearly pension amount is recalculated at 1/66 (1.5%) of AFC multiplied by years of creditable service. Members in service with ten or more years of creditable service who are between ages 50 and 60 or members in service with at least 20 or more years of service, whose combination of age and service is 70 or more, are entitled to a retirement allowance with appropriate graduated reduction based on years of creditable service.

Group II members who are age 60, or members who are at least age 45 with at least 20 years of creditable service can receive a retirement allowance at a rate of 2.5% of AFC for each year of creditable service, not to exceed 40 years.

All covered Department employees are members of Group I.

Members of both groups may qualify for vested deferred allowances, disability allowances, and death benefit allowances subject to meeting various eligibility requirements. Benefits are based on AFC or earnable compensation, service, or both.

The Plan is financed by contributions from the members, the State and local employers, and investment earnings. During the nine months ended March 31, 2010, Group I members were required to contribute 5%, except for state employees whose employment began on or after July 1, 2009, contribute 7% and Group II members were required to contribute 9.3% of gross earnings. The State funds 100% of the employer cost for all of the Department's employees enrolled in the Plan. The annual contribution required to cover any normal cost beyond the employee contribution is determined every two years based on the Plan's actuary.

The Department's payments for normal contributions for the nine months ended March 31, 2010 amounted to 9.09% of the covered payroll for its Group I employees. The Department's normal contributions for the nine months ended March 31, 2010 were \$338,467.

A special account was established by RSA 100-A:16, II (h) for additional benefits. During fiscal year 2007, legislation was passed that permits the transfer of assets into the special account for earnings in excess of 10.5% as long as the actuary determines the funded ratio of the retirement system to be at least 85%. If the funded ratio of the system is less than 85%, no assets will be transferred to the special account.

The New Hampshire Retirement System issues a publicly available financial report that may be obtained by writing to them at 54 Regional Drive, Concord, NH 03301 or from their web site at <http://www.nhrs.org>.

#### *Other Postemployment Benefits*

In addition to providing pension benefits, RSA 21-I:30 specifies that the State provide certain health care benefits for retired employees and their spouses within the limits of the funds appropriated at each legislative session. These benefits include group hospitalization, hospital medical care, and surgical care. Substantially all of the State's employees who were hired on or before June 30, 2003 and have 10 years of service, may become eligible for these benefits if they reach normal retirement age while working for the State and receive their pensions on a periodic



basis rather than a lump sum. During fiscal year 2004, legislation was passed that requires State Group I employees hired after July 1, 2003 to have 20 years of State service in order to qualify for health insurance benefits. These and similar benefits for active employees are authorized by RSA 21-I:30 and provided through the Employee and Retiree Benefit Risk Management Fund, which is the State's self-insurance fund implemented in October 2003 for active State employees and retirees. The State recognizes the cost of providing these benefits on a pay-as-you-go basis by paying actuarially determined contributions into the fund. The New Hampshire Retirement System's medical premium subsidy program for Group I and Group II employees also contributes to the fund. The Department's Medical Subsidy normal contribution rate for the nine months ended March 31, 2010 was 1.96% of the covered payroll for its Group I employees. The Department's normal contributions for the Medical Subsidy for the nine months ended March 31, 2010 were \$74,298.

The cost of the health benefits for the Department's retired employees and spouses is a budgeted amount paid from an appropriation made to the administrative organization of the New Hampshire Retirement System. The Department reimburses the New Hampshire Retirement System for its share of post-employment health care benefits. The amount reimbursed for the nine months ended March 31, 2010 totaled \$42,842.

The State Legislature currently plans to only partially fund (on a pay-as-you-go basis) the annual required contribution (ARC), an actuarially determined rate in accordance with the parameters of Governmental Accounting Standard Board (GASB) Statement No. 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover the normal cost each year and amortize any unfunded actuarial liabilities over a period not to exceed 30 years. The ARC and contributions are reported for the State as a whole and are not separately reported for the Department.

**STATE OF NEW HAMPSHIRE - INSURANCE DEPARTMENT  
BUDGET TO ACTUAL SCHEDULE - GENERAL FUND  
FOR THE NINE MONTHS ENDED MARCH 31, 2010**

<u>Revenues</u>	<u>Original Budget</u>	<u>Actual</u>	<u>Favorable (Unfavorable) Variance</u>
<b>Unrestricted Revenues</b>			
Premium Taxes	\$ 76,300,000	\$ 58,761,725	\$ (17,538,275)
Producer And Adjuster License Fees	8,192,000	6,872,820	(1,319,180)
Insurance Company Fees	1,158,000	1,188,702	30,702
Miscellaneous Fines And Fees	150,000	504,860	354,860
<b>Total Unrestricted Revenues</b>	<b><u>85,800,000</u></b>	<b><u>67,328,107</u></b>	<b><u>(18,471,893)</u></b>
<b>Restricted Revenues</b>			
Administrative Assessment	7,378,990	4,590,910	(2,788,080)
Examinations Fees	2,308,423	1,451,705	(856,718)
Continuing Education Fees	45,000	90,375	45,375
<b>Total Restricted Revenues</b>	<b><u>9,732,413</u></b>	<b><u>6,132,990</u></b>	<b><u>(3,599,423)</u></b>
<b>Total Revenues</b>	<b><u>95,532,413</u></b>	<b><u>73,461,097</u></b>	<b><u>(22,071,316)</u></b>
 <b>Expenditures</b>			
Salaries And Benefits	7,582,982	5,128,229	2,454,753
Indirect Costs	311,654	238,209	73,445
Consultants And Contracted Services	550,225	157,802	392,423
Transfers To Department Of Information Technology	327,407	132,788	194,619
Transfers To General Services	264,832	129,667	135,165
Current Expenses And Equipment	269,003	102,601	166,402
Miscellaneous	309,692	52,389	257,303
Travel	116,618	45,956	70,662
<b>Total Expenditures</b>	<b><u>9,732,413</u></b>	<b><u>5,987,641</u></b>	<b><u>3,744,772</u></b>
 <b>Excess (Deficiency) Of Revenues Over (Under) Expenditures</b>	<b><u>85,800,000</u></b>	<b><u>67,473,456</u></b>	<b><u>(18,326,544)</u></b>
 <b>Other Financing Sources (Uses)</b>			
Net Appropriations (Note 2)	-0-	-0-	-0-
<b>Total Other Financing Sources (Uses)</b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>
 <b>Excess (Deficiency) Of Revenues And Other Financing Sources Over (Under) Expenditures And Other Financing Uses</b>	<b><u>\$ 85,800,000</u></b>	<b><u>\$ 67,473,456</u></b>	<b><u>\$ (18,326,544)</u></b>

The accompanying notes are an integral part of this schedule.

## **Notes To The Budget To Actual Schedule - General Fund For The Nine Months Ended March 31, 2010**

### **Note 1 - General Budget Policies**

The statutes of the State of New Hampshire require the Governor to submit a biennial budget to the Legislature for adoption. This budget, which includes annual budgets for each year of the biennium, consists of three parts: Part I is the Governor's program for meeting all expenditure needs as well as estimating revenues to be received. There is no constitutional or statutory requirement that the Governor propose, or the Legislature adopt, a budget that does not resort to borrowing. Part II is a detailed breakdown of the budget at the department level for appropriations to meet the expenditure needs of the government. Part III consists of draft appropriation bills for the appropriations made in the proposed budget.

The operating budget is prepared principally on a modified cash basis and adopted for the governmental and proprietary fund types with the exception of the Capital Projects Fund.

The New Hampshire biennial budget is composed of the initial operating budget, supplemented by additional appropriations. These additional appropriations and estimated revenues from various sources are authorized by Governor and Council action, annual session laws, and existing statutes which require appropriations under certain circumstances.

The budget, as reported in the Budget To Actual Schedule, reports the initial operating budget for fiscal year 2010 as passed by the Legislature in Chapter 143, Laws of 2009.

Budgetary control is at the department level. In accordance with RSA 9:16-a, notwithstanding any other provision of law, every department is authorized to transfer funds within and among all program appropriation units within said department, provided any transfer of \$2,500 or more shall require approval of the Joint Legislative Fiscal Committee and the Governor and Council. Additional fiscal control procedures are maintained by both the Executive and Legislative Branches of government. The Executive Branch, represented by the Commissioner of the Department of Administrative Services, is directed to continually monitor the State's financial system. The Legislative Branch, represented by the Joint Legislative Fiscal Committee, the Joint Legislative Capital Budget Overview Committee, and the Office of Legislative Budget Assistant, monitors compliance with the budget and the effectiveness of budgeted programs.

Unexpended balances of appropriations at year end will lapse to undesignated fund balance and be available for future appropriations unless they have been encumbered or are legally defined as non-lapsing accounts.

#### *Variances - Favorable/(Unfavorable)*

The variance column on the Budget To Actual Schedule highlights differences between the original operating budget for fiscal year 2010 and the actual revenues and expenditures for the nine months ended March 31, 2010. Actual revenues exceeding budget or actual expenditures

being less than budget generate a favorable variance. Actual revenues being less than budget or actual expenditures exceeding budget cause an unfavorable variance.

Unfavorable variances are expected for revenues and favorable variances are expected for expenditures when comparing nine months of actual revenues and expenditures to an annual budget.

**Note 2 - Net Appropriations**

Net appropriations reflects appropriations for expenditures in excess of restricted revenue not otherwise used (transferred to another Department or Fund).

## APPENDIX - CURRENT STATUS OF PRIOR AUDIT FINDINGS

The following is a summary, as of March 31, 2010, of the current status of the observations contained in the financial audit report of the Insurance Department for the fiscal year ended June 30, 2000 and the performance audit report of the Insurance Department Consumer Protection Functions dated August 2007. A copy of these audit reports can be accessed at, and printed from the Office of Legislative Budget Assistant website at: [www.gencourt.state.nh.us/lba/audit.html](http://www.gencourt.state.nh.us/lba/audit.html).

	<u>Status</u>		
<b>2000 – Insurance Department</b>			
<b><i>Internal Control Comments</i></b>			
<i>Material Weakness</i>			
1. Inadequate Review Of Premium Tax Returns Demonstrates Need For Additional Staff And Audit Function	●	●	●
<i>Other Reportable Conditions</i>			
<b><u>Examination Division</u></b>			
2. Examiner Hours Worked And Travel Expenses Should Be Subject To A Documented Review Procedure	●	●	●
3. Administrative Assessment And Examination Billing Processes Should Be Improved	●	●	●
4. Written Policy Needed For Late Premium Tax Filers	●	●	●
<b><u>Licensing Division</u></b>			
5. Licensing Receipts Should Be Recorded And Deposited More Timely And Handling Of Receipts Should be Limited	●	●	●
6. Duties Should Be Properly Segregated In The Licensing Process	●	●	●
7. Licensing Employee Access Levels Should Be Reviewed	●	●	●
<b><u>Administration Division</u></b>			
8. Formal Fraud Deterrence And Detection Program Should Be Established	●	●	●
9. Formal Fraud Reporting Policy Should Be Established	●	●	●
10. Equipment Should Be Surplused In A Timely Manner	●	●	●
11. Date-Stamping Policy Should Be Adhered To	●	●	●
12. Expenditure Allocation Methods Should Be Improved	●	●	●
13. Standard Operating Procedure Manuals Should Be Established And Updated Regularly	●	●	●
14. Accounting For Equipment Should Be Improved	●	●	●
<b><i>Compliance Comments</i></b>			
<i>State Compliance</i>			
15. Compensation Payments To Contract Examiners Should Be Made In Compliance With State Statute	●	●	●
16. Rules And Regulations Should Be Adopted As Required	●	●	●
17. Organizational Rules Should Be Revised To Reflect Current Operating Structure ( <i>See Current Observation No. 10</i> )	●	○	○
18. Insurance Vending Machine Fees Should Be Reviewed	●	●	●

*Management Issues Comments*

- |   |   |   |   |
|---|---|---|---|
| 19. Independent Contractors Should be Classified As Employees For Tax Purposes            | ● | ● | ● |
| 20. Written Contracts Should Be Required For Independent Contractors                      | ● | ● | ● |
| 21. Part-Time Contract Examiner Health Insurance And State Holiday Pay Should Be Reviewed | ● | ● | ● |
| 22. Fraud Prosecutor Should be Treated More Like A Department Employee                    | ● | ● | ● |
| 23. Automated Timekeeping/Billing System Needed For Examination Billings                  | ● | ● | ● |

**Status Key**

Fully Resolved	●	●	●	<b><u>Count</u></b>	22
Partially Resolved	●	○	○		1

**Status**

**2007 – Insurance Department Consumer Protection Functions**

**Consumer Services**

- |  |   |   |   |
|--|---|---|---|
| 1. Ensure All Phone Complaints Are Recorded In the Complaint Database                              | ● | ● | ● |
| 2. Ensure Complaint Acknowledgement Letters Are Sent Within Two Business Days                      | ● | ● | ● |
| 3. Consistently Handle Complaints Filed By Consumers Who Have Retained An Attorney                 | ● | ○ | ○ |
| 4. Disposition Letters To Consumers Should Provide More Explanation Regarding Complaint Resolution | ● | ● | ● |
| 5. Establish A Formal Procedure For Referring Complaints To The Enforcement Investigators          | ● | ● | ● |
| 6. Formally Adopt Procedures For Enforcement Unit Investigations                                   | ● | ● | ● |
| 7. Establish Procedures For Ensuring Quality Control   |   |   |   |

**Financial Examinations**

- |   |   |   |   |
|---|---|---|---|
| 8. Use Competitive Bidding For Procuring Contracted Examination Services  | ● | ● | ● |
| 9. Seek Clarification Of Statutes Related To Payments To Contracted Examiners   | ● | ● | ● |
| 10. Seek Clarification Whether Statutes Require Governor And Council Approval For Examiner And Examination Firm Contracts | ● | ● | ● |
| 11. Conduct Statutorily Required Examinations Of Foreign Companies Licensed In New Hampshire                              | ● | ● | ● |

**Management Controls**

- |   |   |   |   |
|---|---|---|---|
| 12. Establish A Written Business Continuity Plan ( <i>See Current Observation No. 3</i> ) | ● | ○ | ○ |
|---|---|---|---|

**Status Key**

Fully Resolved	●	●	●	<b><u>Count</u></b>	10
Partially Resolved	●	○	○		2